

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 27-6-2006 passed by the Additional Sessions Judge, Parbatsar, district Nagaur (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 45/2003, whereby the Revisional Court, while partly allowing the revision petition filed by the State, set aside the order dated 24-4-2003 passed by the Additional Chief Judicial Magistrate, Makrana, district Nagaur (for short, "the trial Court" hereinafter) and remanded the matter to the trial Court to proceed against the petitioner in accordance

with law.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the trial Court as well as the Revisional Court.

It is contended by the learned counsel for the petitioner that there is a defect in the report lodged by the Food Inspector to the effect that the sanction has been accorded by the Chief Medical & Health Officer, whereas the competent Sanctioning Authority is the Collector. It is further contended that it has not been established that at the time of taking the sample, the petitioner was found selling the chillies.

So far as the contention regarding sanction is concerned, no such point was raised before the trial Court or the Revisional Court and for the first time, this point has been raised before this Court.

On perusal of the orders passed by the Courts below, it appears that on 23-12-2005, the shop of the petitioner running in the name and style of "Nakoda Naveen Store" was checked by the Food Inspector and the sample of chillies was taken. The sample, on being analysed by the Chemical Analyst, was found adulterated. A complaint was filed after obtaining the sanction to prosecute the petitioner. The trial Court discharged the petitioner and co-accused Beni Gopal. On a revision, the order of the trial Court qua co-accused Beni Gopal was found to

be correct, however, the order of the trial Court qua the petitioner, was set aside. The question is to be decided by the trial Court by recording the evidence.

So far as the contention that the petitioner was not found selling the chillies is concerned, it is a matter of evidence and the Food Inspector has clearly stated that the petitioner was running the shop, he purchased the sample of chilly-powder, which, on being analysed by the Chemical Analyst, was found to be adulterated. In the circumstances, therefore, no case for quashing the proceedings at the initial stage is made out. It is always open for the petitioner to lead evidence, if he has any, before the trial Court at the time of hearing of the matter.

The criminal miscellaneous petition is, therefore, dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

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